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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/646,937

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Hamzeh Karami

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06/12/2008

AMSTER, ROTHSTEIN & EBENSTEIN LLP  
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NEW YORK, NY 10016

EXAMINER

STEPHENS, JACQUELINE F

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/646,937	<b>Applicant(s)</b> KARAMI, HAMZEH	
	<b>Examiner</b> Jacqueline F. Stephens	<b>Art Unit</b> 3761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 November 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 117-127, 129, 130, 132-134, 137-147, 149-151 and 154-196 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 189-196 is/are allowed.
- 6) ☒ Claim(s) 117-127, 129, 130, 132-134, 137-147, 149-151 and 154-188 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/24/08 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 3/24/08 have been fully considered but they are not persuasive. Regarding claims 117, 129, 146, 163, 168, 173, and 179, Applicant argues Sauer does not disclose or suggest an absorbent article including inter alia hook fasteners that are permanently and directly attached to the outer surface of the back waist portion and that Sauer instead discloses an absorbent article having an expansion member 46 that is permanently attached to the inner surface of the rear portion 24 of the absorbent article. Applicant further argues one having ordinary skill in the art would have no motivation to make such a modification to Sauer in light of the resulting bulkiness. The examine respectfully disagrees, the fasteners attached to the outer surface would not necessarily require the back waist region to curled around itself as characterized by Applicant. The fastener itself would be folded in a similar manner to provided the extended fastener connection. Additionally, having a fastener on the outer

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surface as opposed to the inner surface minimizes contact of the fastener with the wearer's skin and thus minimizes the possibility of skin irritation.

As to claims 145 and 178, the Examiner has previously indicated in the Advisory Action mailed 3/6/08 that claims 145 and 178 overcame the applied reference under 102(b). However, after further review of the claim limitations and the prior art Sauer, the rejection under 102(b) is still applicable and is applied below. Applicant repeats the argument that that Sauer does not disclose or suggest an absorbent article including, inter alia, a third prefolded nonwoven connector and a fourth nonwoven connector where the first prefolded nonwoven connector is releasably preengaged with the third prefolded nonwoven connector and the second prefolded nonwoven connector is releasably preengaged with the fourth prefolded nonwoven connector and that the separate fasteners taught by Sauer are not prefolded, but separate patch-like fasteners. However, Figures 6 and 7 (particularly Figure 7) shows a first and third prefolded nonwoven connector 42 and 44, with the second and fourth prefolded nonwoven connectors being present on the opposite lateral side of the article. In Figure 7, the Examiner considers 44 as the first connector and connector 42 to be prefolded by its attachment to fold 46. The connectors are attached to each other via their connection to the landing fastener.

As to claim 189, the arguments are persuasive.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 145, 178, 179-188 are rejected under 35 U.S.C. 102(b) as being anticipated by Sauer USPN 5624428.

As to claims 145, 178, 179-182, 184-188, Sauer discloses a prefastened absorbent article as claimed having a topsheet 30;

a backsheet 32; an absorbent core 34 sandwiched between the topsheet and the backsheet;

a back waist portion 24 having an inner surface, an outer surface, a first lateral end and a second lateral end;

a front waist portion 22 having an inner surface, an outer surface, a first lateral end and a second lateral end;

the first lateral end of the back waist portion 24 disposed adjacent to and space apart from the first lateral end of the front waist portion 22 and the second lateral end of the back waist portion 24 being disposed adjacent to and spaced from the second lateral end of the front waist portion 22;

a crotch portion 26 longitudinally connecting the back and front waist portions, the crotch portion having a first lateral end and a second lateral end 28;

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a first prefolded nonwoven connector 38 that connects the first lateral end of the back waist portion to the first lateral end of the front waist portion;

a second prefolded nonwoven connector 36 that connects the second lateral end of the back waist portion to the second lateral end of the front waist portion;

a first hook fastener strip 42 secured to the first prefolded nonwoven connector and releasably preengaged with the outer surface of the front waist portion and permanently engaged to the first and second prefolded nonwoven connector with attached hook fasteners (Figure 1).

Sauer discloses a prefastened absorbent article as claimed having a first and second prefolded nonwoven connector with attached hook fasteners (Figure 1). In Figure 7, the Examiner considers 44 as the first connector and connector 42 to be prefolded by its attachment to fold 46. The connectors are attached to each other via their connection to the landing fastener.

As to claim 183, Sauer discloses the nonwoven is breathable col. 8, lines 40-63.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 117-127, 129, 130, 133,134, 137-144, 146, 147, 149-151, 155-177, and 192 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer 5624428.

As to claims 117, 118, 126, 127, 129, 132, 137,138, 141, 146, 158, 163, 167, 168, 169, and 173-175, Sauer discloses a prefastened absorbent article as claimed having a topsheet 30;

a backsheet 32; an absorbent core 34 sandwiched between the topsheet and the backsheet;

a back waist portion 24 having an inner surface, an outer surface, a first lateral end and a second lateral end;

a front waist portion 22 having an inner surface, an outer surface, a first lateral end and a second lateral end;

the first lateral end of the back waist portion 24 disposed adjacent to and space apart from the first lateral end of the front waist portion 22 and the second lateral end of the back waist portion 24 being disposed adjacent to and spaced from the second lateral end of the front waist portion 22;

a crotch portion 26 longitudinally connecting the back and front waist portions, the crotch portion having a first lateral end and a second lateral end 28;

a first prefolded nonwoven connector 38 that connects the first lateral end of the back waist portion to the first lateral end of the front waist portion;

a second prefolded nonwoven connector 36 that connects the second lateral end of the back waist portion to the second lateral end of the front waist portion;

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a first hook fastener strip 42 secured to the first proefolded nonwoven connector and releasably preengaged with the outer surface of the front waist portion and permanently engaged to the first and second prefolded nonwoven connector with attached hook fasteners (Figure 1).

Sauer discloses the claimed invention except for the fasteners in the back are attached to the inner surface rather than the outer surface of the article as claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Sauer to have the fasteners on the outer surface since rearranging parts of an invention involves only routine skill in the art. Additionally, one having ordinary skill in the art would be motivated to modify the invention of Sauer to provide the fasteners on the outer surface to reduce irritation to the wearer.

As to claim 121, 139, see Figure 1.

As to claim 122, 134, 150, 151, see col. 8, lines 31-67.

As to claim 123, 143, 144, 149, 154-157, 164, 170, see Figures 2 and 3.

As to claims 125, 130, 133, 140, 142, 147, 159 the nonwoven connectors are folded at least twice -see Figure 7.

As to claims 119, 120, 124, 160, 162, 165, 166, 171, 172, 176, and 177, Sauer discloses the nonwoven connectors are secured to each other by securement means (see Figure 6 ).



***Allowable Subject Matter***

2. Claims 189-196 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jacqueline F Stephens/  
Primary Examiner, Art Unit 3761

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